IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 2681 of 2001

Between:

Sri Devi Hotels Private Limited, rep. By its Managing Director, M.Mohan Reddy S/o.Pratap Reddy, age 43 years, H.No.7-10-910/2, Station Road, Nizamabad.

... PETITIONER

AND

1) The A.P.State Financial Corporation, rep.by its Managing Director, 5-9-194, Chirag Ali Lane, Abids, Hyderabad.
2) The Senior Branch manager, A.P.State Financial Corporation, Nizamabad Branch, Nizamabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the demand notice No.AFC/NZB/MR&R/SDH/2000-2001/3476, dated 31.01.2001 issued by the 2nd respondent Senior Branch Manager, A.P.State Financial Corporation, Nizamabad as illegal, arbitrary and against the principles of natural justice.

Counsel for the Petitioner:MR.K.JAYA KUMAR

Counsel for the Respondents: MR.Y.N.LOHITHA

The Court made the following :

O R D E R:

Heard both sides and at their request, the main writ petition itself is taken up for disposal.

The petitioner, who is the principal loanee from the first respondent, filed this writ petition, *inter alia,* seeking to assail the demand notice dated 31.01.2001, issued by the second respondent for payment of the amount due from him.

The case of the petitioner is that having regard to the checkered events, he is not liable to make any payment and further he is disputing the quantum as claimed in the demand notice. It is also complained that the respondents have not given due credence to various representations filed by him, nor extended the benefit of 'One Time Settlement (OTS) scheme" to him. Hence, the writ petition.

The learned Standing Counsel for the first respondent Corporation submits that as the petitioner committed default, the respondents have initiated proceedings against the petitioner, as contemplated under the statute, and the petitioner earlier had filed Writ Petition No.21863 of 2000, which was disposed of on 2.12.2000, directing him to pay certain amount and also to make a representation. Considering the representation filed by the petitioner, he was given the benefit of OTS scheme, and in spite of the same, the petitioner did not avail the said benefit, nor make any payments in terms thereof. Though some amounts have been paid subsequently, the petitioner did not stick to the terms contained thereunder. Hence, the petitioner is not entitled for any indulgence of this Court.

Considering the submissions made and also on perusal of the material, it is seen that there is no dispute in regard to obtaining of the loan by the petitioner and also filing of the earlier writ petition, in terms of which the petitioner has made certain deposits. It is also not in dispute that the petitioner was given the benefit of OTS scheme, but he did not stick to the terms contained therein. The petitioner no doubt has

deposited certain amounts earlier and also subsequently, in terms of the interim orders passed by this Court in the present writ petition. However, the fact remains that the petitioner having not availed the opportunities provided by the respondents earlier and also the benefit under OTS scheme, he is not entitled to seek indulgence of this Court under Article 226 of the Constitution of India. Even otherwise, the petitioner has not made out any case of unreasonableness or statutory violation, as contemplated by the apex Court in **STATE FINANCIAL CORPORATION v. M/S. JAGADAMBA OIL MILLS**[1]. Hence, there is no warrant for interdicting the proceedings as initiated against the petitioner. Therefore, there are no merits in the writ petition.

Writ Petition is accordingly dismissed. No costs.

21st September, 2004

pan/ghn

To

1) The Managing Director,
A.P.State Financial Corporation,
5-9-194, Chirag Ali Lane, Abids, Hyderabad.
2) The Senior Branch manager,
A.P.State Financial Corporation,
Nizamabad Branch, Nizamabad.
3) Two C.D. copies

[1] AIR 2002 SUPREME COURT 834